September 27, 2007

Margo Schultz-Haugen
National Marine Fisheries Service
Highly Migratory Species Management Division F/SF1
1315 East West Highway
Silver Springs, MD 20910

RE: Draft Amendment 2 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan and Draft Environmental Impact Statement (EIS) CEQ No. 20070313

Dear Ms. Schultz-Haugen:

EPA is providing the comments to the National Oceanic and Atmospheric Administration (NOAA) and the National Marine Fisheries Service (NMFS) on the referenced actions. These comments are offered in accordance with EPA's responsibilities under Section 309 of the Clean Air Act, Section 102(2) of the National Environmental Policy Act (NEPA), and the Council on Environmental Quality's regulations for implementing NEPA.

NMFS is amending the Consolidated Highly Migratory Species Fishery Management Plan to implement management measures for various shark species; initiate rebuilding plans for porbeagle, dusky, and sandbar sharks; explore strategies needed to reduce shark fishing mortality; and rebuild overfished Atlantic shark species while ensuring that a limited fishery can be maintained.

Compared with other highly migratory species, shark species tend to have low reproductive potential because they are slow-growing, take a long time to mature (sandbar sharks require12 to 15 years), have few young per brood, and, when mature, reproduce only every two or three years. The low reproductive capacity of many shark species was amply demonstrated in the document. Theoretical stock recovery scenarios for sandbar sharks were modeled using three rebuilding timeframes: 1) rebuilding with Total Allowable Catch (TAC) equal to zero (i.e., no fishing, starting in 2007), in which case the model calculated likely stock rebuild in 38 years; 2) a TAC corresponding to a 50 percent probably of rebuilding by 2070; 3) a TAC corresponding to a 70 percent probability of rebuilding by 2070. Population rebuilding scenarios for another species, the dusky shark, is far more problematic: NMFS's modeling projections indicated that rebuilding the dusky shark population will take between 100-400 years (DEIS, pg 1-7). Dusky sharks are no longer considered a commercially viable species.

The document examines five suites of alternative actions aimed at improving the fishery. NMFS is proposing incorporation of a shark research fishery into their existing permit programs and invite commercial permit holders to submit an application to participate in the shark research fishery on an annual basis. Alternative 4 would also include 100 percent observer coverage for vessels participating in sandbar shark research programs, a strong commitment to maintaining the integrity of the program, in our view.

EPA defers to NMFS in technical matters pertaining to fishery management, and supports Preferred Alternative Suite 4, *Establish a Research fishery for Sandbar Sharks; Shark Fishery for Directed, Incidental, HMS Angling, and HMS Charter/Headboat Permit Holders.* The final EIS might reiterate that the low harvesting quota proposed for the sandbar shark research fishery will not retard population recovery. This assurance should avoid the perception that the proposed research program is a substitute for hard regulatory decisions, an allegation often made of Japanese whaling research*.

EPA rates this action as "LO" that is, lack of objections. The alternatives that were examined, impacts on threatened and endangered species, bycatch issues, and public participation processes were satisfactorily addressed in this document. For questions and more information, please contact John Hamilton at (404) 562-9617.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

*See "Japan's whaling plan under scrutiny", Nature, 435, 883–884; 2005). Under the aegis of scientific research, threatened whale species have been harvested since 1987. While the Japanese whale research is conducted according to provisions of the International Convention for the Regulation of Whaling (ICW), and inexpensive animal protein sources are readily available to Japanese consumers, endangered whale species have nonetheless been hunted as food for the past 30 years.